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There is no legitimacy crisis: Support for judicial institutions in modern Latin America*

Sin crisis de legitimidad: el apoyo a las instituciones judiciales en la América Latina contemporánea

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While important for every political institution, diffuse support —also called institutional legitimacy— is especially vital for courts. Conventional wisdom suggests that the U.S. Supreme Court enjoys a uniquely high level of public support; widespread pessimism colors existing assessments of high courts' legitimacy throughout the Americas. We show that not only is the U.S. Supreme Court not an anomaly, but the widespread assumption that Latin American courts are lacking in public legitimacy is fundamentally wrong. We conclude with a discussion of the implications of this research for future endeavors and make our case for more careful measurement and interpretation of these critical concepts in future research.

All political institutions require the support of the public in order to be effective (Easton, 1965). Scholars widely agree that the public's diffuse support —otherwise known as legitimacy— is of unique importance for courts because these institutions cannot directly enforce their decisions. Reviewing a mature corpora of work on the institutional legitimacy of the U.S. Supreme Court, Gibson (2007) argues that “in comparison to other national high courts, the U.S. Supreme Court enjoys an extraordinarily wide and deep ‘reservoir of goodwill’ —only a handful of institutions has support percentages approaching those of the American court” (522, see also Gibson, Caldeira, and Baird, 1998).

Outside of the United States, widespread pessimism colors existing assessments of public support for national high courts in separation of powers systems. Seligson (2007), for example, reports that “nearly all surveys of

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Latin America have found that citizens hold their national legislatures and judiciaries in low regard” (89). Citing these low levels of public esteem for national high courts, scholars, politicians, and pundits make the leap from general public support to institutional legitimacy, suggesting that judicial institutions throughout the Americas are in a perpetual state of crisis, lacking in both political autonomy and institutional efficacy (Hammergren, 1998; Prillaman, 2000; Domingo, 2004; Helmke, 2005). This contention is not new. Verner (1984) notes the “often cited” assertion that Latin American “supreme courts do not have an effective, popular power base in the population” (473).

We challenge this conventional wisdom by cataloging variation in public support for courts throughout separation of powers systems in the Americas. We demonstrate that, contrary to common opinion, the assumption that Latin American courts are wholly lacking in legitimacy is generally misplaced. In fact, the public displays remarkable consensus in its institutional loyalty to its high courts, though public trust in high courts throughout the region is admittedly quite low. We attribute this to a misinterpretation of data that is widely available, but does not validly measure institutional legitimacy.

This descriptive result carries with it broad empirical and theoretical implications. The public’s unwillingness to tolerate inter-branch aggression and non-compliance is a central mechanism in many prominent theoretical models of comparative judicial independence and power: the threat of public backlash for non-compliance or inter-branch assaults implies that incumbents should have no recourse but to respect the court and to comply with its decisions (Vanberg, 2001; Clark, 2009; Staton, 2010). The centrality of this mechanism, coupled with the widespread assumption that Latin American courts are fundamentally lacking in public support, has fueled a consensus that Latin American courts are weak and ineffective, and that this lack of public legitimacy is ultimately to blame. Helmke (2010a), for example, argues that “low levels of legitimacy appear to have more explanatory power than several other intuitively plausible causes of judicial instability” (397). The empirical result reported here suggests there is much more to this puzzle than immediately meets the eye and multiple empirical and theoretical assumptions deserve reconsideration in light of these findings.

Measuring public support for judicial institutions

In his pioneering work on public support, Easton (1965) differentiates between two types of public support that institutions require. Easton identified diffuse support as “form[ing] a reservoir of favorable attitudes or

good will that helps members to accept or tolerate outputs to which they are opposed or the effect of which they see as damaging to their wants” (273). Other terms for diffuse support are institutional legitimacy, loyalty, or fealty. Legitimacy represents a willingness to accept the decisions and authority of an institution irrespective of one’s disagreement with its decisions. Institutional legitimacy is often measured with a battery of survey questions that assess the extent to which individuals would tolerate fundamental changes to the institutional structure of a court. An unwillingness to support institutional changes reveals a profound commitment to the institution as it is. In contrast to diffuse support, specific support refers to performance satisfaction and approval of institutional output. Easton (1965) described specific support as essentially “a quid pro quo for the fulfillment of demands”: specific support for an institution increases when an individual agrees with an institution’s outputs, and it declines in the face of disagreement with an institution’s decisions (268).

In spite of the centrality of these concepts for both pure theoretical and empirical work, Easton’s distinction between the multiple conceptual dimensions of institutional support —much less their empirical differentiation— is rarely considered directly outside the U.S. contexts (but see, Gibson, Caldeira, and Baird 1998, and Walker, 2016). Constrained by a lack of available measures that adequately capture concepts of theoretical interest, analyses of institutional confidence measures are often interpreted as measures of institutional legitimacy (Kapiszewski, 2012; Salzman and Ramsey, 2013; Domingo, 2004; Helmke, 2005, 2010b,a). This interpretation is all the more troubling in light of the work of Gibson, Caldeira and Spence (2003), who document that the commonly used measures of institutional trust or confidence are more closely related to short-term performance satisfaction (specific support) than diffuse support¹. They caution that “low levels of confidence should certainly not be interpreted as indicating low institutional legitimacy” (361), with other scholars raising similar precautions (Gibson, Caldeira and Baird, 1998; Staton, 2010; Kapiszewski, 2012).

Consequently, the inferences that have been drawn about the institutional legitimacy of courts of the Americas are incomplete at best and incorrect at worst.

¹ Gibson, Caldeira and Spence (2003) considered questions that differentiated short-specific and long-term (diffuse) measures of institutional support, finding that, while expressed confidence in the high court correlates weakly with diffuse support, it was strongly associated with short-term evaluations of the U.S. Supreme Court’s performance. They report that many respondents who appear wary or outright skeptical of the Supreme Court’s trustworthiness nevertheless displayed high levels of institutional fealty and were unwilling to accept or tolerate fundamental changes to the Supreme Court as an institution.

Public support for courts in modern Latin America

Our data come from the 2008 Americas Barometer surveys. While these surveys ask similar questions in other years, 2008 is the year with the best coverage across countries on our items of interest². In Appendix A we show that the results are similar to other years in which similar questions were included in the core questionnaire³. Institutional Trust is measured using the question “To what extent do you trust the Supreme Court?”⁴ We code respondents as trusting the court if they reported a 5, 6 or 7 on the 7-point Likert response scale. Our measure of diffuse support is based on respondents’ answers to the question “Do you believe that there might be a time in which the president would have sufficient reason to dissolve the Supreme Court, or do you think that sufficient reason could never exist?” This question taps abolition of the court, a concept similar to one identified by Gibson, Caldeira and Spence (2003) as a valid measure of Easton’s (1965) original concept of “diffuse support”. We discuss the validity of this measure in the next section.

Figure 1 lends additional credence to the assertion that the region’s high courts suffer a deficit of the public’s trust. The lighter-colored bars in the left-hand panel represent the percentage of respondents who said they trusted their national supreme court in 2008. Two conclusions are readily apparent. First, public trust in national high courts is generally lacking: the regional average is only 38%, with some cases that dip well below 20%. Second, the United States Supreme Court—the highest bar in the plot—far outpaces its institutional counterparts in terms of public trust, with more than 75% of U.S. respondents reporting trust in the U.S. Supreme Court.

Yet, turning to the right-hand panel of Figure 1, the difference between institutional trust and institutional legitimacy becomes readily apparent. Contrary to contemporary concerns about an overwhelming lack of institutional legitimacy, supreme courts throughout Latin America enjoy relatively high levels of institutional loyalty: a large percentage of all national populations profess an unwillingness to tolerate fundamental changes to their national high courts’ institutional integrity. Though the United States has long been assumed to be unique in its “reservoir of goodwill,” Figure 1 suggests that it is in either unique nor an outlier. Relative to the other supreme courts of the Western Hemisphere, the U.S. stands only slightly above the hemispheric

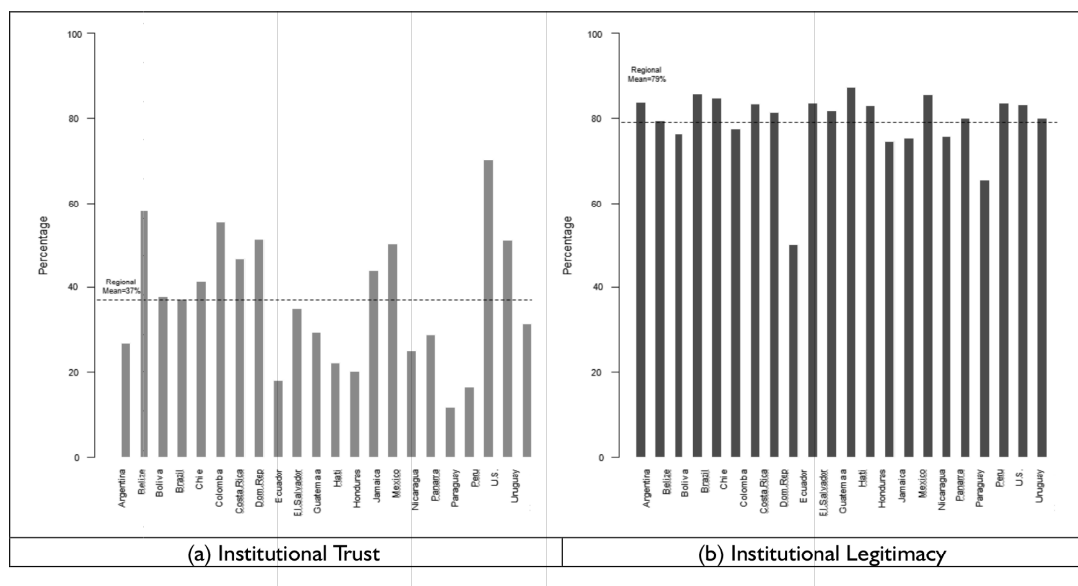
² The Americas Barometer has changed the wording of their diffuse support question over time. We assess the validity of both wordings below, and Appendix A demonstrates that our conclusion is robust to both question wordings.

³ The data in Appendix A end in 2012; the Americas Barometer has not contemporaneously asked both questions in more recent surveys.

⁴ Specifically, the question queries respondents’ “*confianza*,” which translates to either trust or confidence. We therefore use both terms interchangeably throughout.

average of 79%. Far from implying widespread crises of legitimacy, these figures paint a picture of national high courts that, despite the public mistrust they inspire, are nevertheless broadly viewed by the public as a central component of the constitutional system. Taken together, these patterns suggest that we have more to learn about the origins of institutional trust and more profound institutional fealty for the high courts of Latin America.

Figure 1



Darker-colored bars represent the percentage of respondents answering in the negative to the question “Do you believe that there might be a time in which the president would have sufficient reason to dissolve the Supreme Court, or do you think that sufficient reason could never exist?” Lighter-colored bars represent the percentage of respondents claiming a 5, 6 or 7 on that 7-point Likert scale, taken from the question “To what extent do you trust the Supreme Court?” The figures reported for the United States are taken from the 2006 AmericasBarometer.

Measurement validity

Some may question whether the question we consider adequately captures the concept of diffuse support. Caldeira and Gibson (1992) argue that measures of that concept should probe respondents’ “unwillingness to make

or accept fundamental changes in the functions of the institution” (638). Moreover, Gibson, Caldeira, and Baird (1998) identify an item relating to the abolition of a court as “the clearest and most direct operationalization [of diffuse support]. If one agrees that it may be better to do away with the court... then obviously one is not supportive of the institution” (348). Similarly, Gibson, Caldeira and Spence (2003) contend that the “item about doing away with the Court has the highest face validity, given Easton’s original conceptualization” (363). Conceptually, then, the item accurately captures the concept of interest. Abolition is the ultimate “fundamental chang[e]”.

Still, we acknowledge three ways that the question we evaluate is less than ideal. First, this question’s wording differs from the one explicitly advocated by Gibson, Caldeira and Spence (2003), leaving the respondent to imagine a hypothetical situation in which she would support an institutional change. Second, the question contains an explicit reference to “the President”. This phrasing might invite contamination. Priming respondents to consider the actions of a presidential incumbent may invoke responses that have more to do with respondents’ support for the incumbent rather than their commitment to the high court. Finally, the standard battery of questions commonly analyzed by Americanists includes a series of items querying respondents about their support for various institutional changes: removing high jurists from office, reducing the jurisdiction of a high court, making the court less independent, and doing away with the court altogether. Unfortunately, the full battery of questions was not asked in the Americas Barometer, and one might be concerned that only extremists are willing to abolish a supreme court. If true, the use of this item would artificially inflate our estimates of diffuse support. In the sections that follow, we probe the validity of this survey item.

Does the item scale with widely-used measures of diffuse support?

The first two limitations relate to the wording of the Americas Barometer item. The wording differs from that suggested by Gibson, Caldeira and Spence (2003), and it mentions “the president,” raising concerns of contamination. To evaluate the extent to which this question is a valid measure of the underlying concept of diffuse support, we included the two wordings used by the Americas Barometer question on a public opinion survey of 1000 respondents conducted on Amazon MTurk in December of 2017. We provide more information on the demographics of our sample in Appendix B.

The survey asked respondents the two Americas Barometer questions along with four questions suggested by Gibson, Caldeira and Spence (2003):

- If the U.S. Supreme Court started making a lot of decisions that most people disagree with, it might be better to do away with the Court altogether.
- The right of the U.S. Supreme Court to decide certain types of controversial issues should be reduced.
- Justices on the U.S. Supreme Court who consistently make decisions at odds with what the majority wants should be removed from their position.
- The U.S. Supreme Court ought to be made less independent so that it listens a lot more to what the people want.
- Do you believe that there might be a time in which the president would have sufficient reason to dissolve the Supreme Court, or do you think that sufficient reason could never exist? (Americas Barometer 2006-2008).
- Do you believe that when the country is facing very difficult times it is justifiable for the President of the country to dissolve the Supreme Court and govern without the Supreme Court? (Americas Barometer 2010-2012).

This six-item scale has high reliability with a Cronbach's alpha is 0.80. Moreover, the item set is strongly unidimensional, with an eigenvalue of the first factor of 2.68 but a mere 0.39 for the second factor. The factor loading for the Americas Barometer question item is 0.51 for the Americas Barometer 2008 item and 0.58 for the 2010 wording. While these item loadings are lower the item loadings for the other measures of diffuse support in our scale (which range from 0.70-0.74), they are not out of the norm for other measures used in research on the U.S. Supreme Court, and are well in line with widely suggested cut offs⁵. Thus, our Americas Barometer question appears to satisfy traditional metrics for factor loadings onto the same dimension as the gold-standard Gibson, Caldeira and Spence (2003) items⁶. While the reference to the president or the hypothetical wording does seem to weaken the item's connection to other, more widely-used measures of the concept, it does not appear to have wholly invalidated this question as a viable measure of legitimacy.

⁵ For example, Hair et al. (1998) write that "if the loadings are ± 0.50 or greater, they are considered practically significant" (111).

⁶ When the confidence item is added to the item set, it does not load well onto the same factor as the diffuse support items; its loading is a meager $\ll 0.38$. Moreover, a factor analysis of the Americas Barometer data suggest that respondents' reported trust in the supreme court loads strongly on a common factor analytic dimension with their more general attitudes about the performance of the political system, as we would expect if that item captured performance satisfaction.

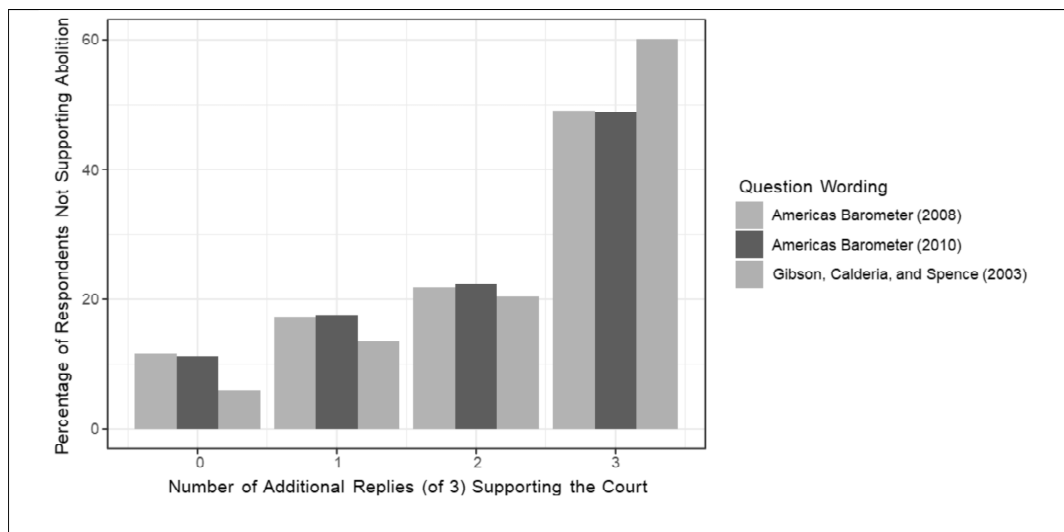
Is the “do away with” item too extreme?

Eliminating an institution of the national government is a monumental change to the structure of a political system. We fully concede that this item may represent an outer bound of support. To this end, we are concerned with the likelihood that this measure artificially inflates our estimates of institutional support, yielding a meaningful difference between institutional trust and diffuse support only because our diffuse support item is unrealistically extreme. Empirically, would respondents who support the court on the question of abolition turn their back on the institution when given the opportunity to support other, less extreme measures of court curbing? Were this the case, it would suggest that the estimates in Figure 1 are falsely increased by the use of the abolition item.

Figure 2 provides some data on this point from our MTurk survey. The data for the figure is restricted to those “court-protective” respondents on the abolition question (in other words, they would not abolish the court), and the colors of the bars correspond to the three different question wordings for that concept. The height of the bars indicates the percentage of those respondents who gave court-protective responses on the remaining three court curbing questions (regarding limiting independence, jurisdiction, or removing controversial judges). If it were the case that the “do away with” item was artificially inflating diffuse support, we should observe relatively high bars on the left-hand side of the figure: respondents are willing to support the Court against abolition but not against other types of attacks.

That is not the case. Irrespective of the wording of the question used to assess the proposal of Court abolition, the respondents who adopt a court-protective stance on the question of abolition are also court-protective on other, similar, items. Only a small number of respondents—less than 12%—appear to be extremists, supporting the Court on the question of abolition but not on any of the other institutional commitment items. While there is a good deal of variation across the number of supportive replies—a feature of such a scale, not a drawback—Figure 2 assuages our concerns that a large percentage of respondents support not only keeping the Court, but would protect it on all other fronts.

Figure 2



Diffuse support for the supreme court among respondents who would not abolish the Court.

The bars indicate the percentage of respondents who gave court-protective replies in response to other court curbing proposals.

Discussion

In this paper, we have evaluated institutional support for high courts across Latin America. Contrary to conventional wisdom, we suggest that these courts are not lacking in diffuse support; they are widely perceived as legitimate institutions. Our data suggest that Latin American supreme courts are just as legitimate as the U.S. Supreme Court, which has been widely regarded as the most legitimate constitutional court in the world.

The distinction we draw—between trust and institutional commitment—is one with a difference. This research serves as a call for more and ideally continuous systematic research on the micro-foundations of public support for high courts and political institutions writ large. As with many comparative researchers, we stand on the shoulders of the immensely important data gathering capabilities of those who run cross-national surveys. While some questions on these large-scale survey operations are ideal for some purposes, other concepts of interest are measured imprecisely (or sometimes not at all). Our analysis suggests that scholars must take care to only interpret measures

as applying to specific concepts when the link between concept and measure is clear. Simply put, survey items about institutional trust or confidence do not measure legitimacy. And, of course, when scholars have the opportunity to design and implement their own surveys, they need to take care to design instruments that provide valid indicators of the concepts of interest.

This descriptive result calls into question existing conventional wisdom about the legitimacy of Latin American high courts, as well as related implications for assessments of their institutional integrity and potential efficacy. Institutional legitimacy is theorized to deter would-be institutional assailants and to promote compliance. The threat of backlash has been theorized as a critical mechanism for protecting high courts from incumbents, who would seek to influence or undermine high courts via court curbing attacks (Vanberg, 2001; Clark, 2009; Helmke, 2010a). In the Latin American separation of powers systems, this threat of incumbent infringement and institutional assault is ever-present; a lack of institutional legitimacy is commonly posited to be at fault (Kapiszewski, 2012; Helmke, 2010a,b). Our results suggest that there is more to the story here than meets the eye. If Latin American courts are more widely legitimate than previously believed, then it calls into question the benefits of court curbing attempts (c.f. Clark, 2009), and the extent to which a lack of diffuse support is to blame for instability throughout the region (Helmke, 2010a).

Second, but no less important, institutional legitimacy and the threat of public sanction is also a key mechanism for compliance with judicial decisions. This assumption has motivated a broad and compelling literature on strategic judicial behavior in high courts around the world (Kapiszewski and Taylor, 2013), impacting everything from the decisions they craft (Vanberg, 2001), interbranch relations (Clark, 2009), and courts' procedural and publication decisions (Staton, 2010; Krehbiel, 2016). Consequently, it has been largely assumed that Latin American courts are generally impotent political actors and lacking in judicial power (Domingo, 2004). Broadly speaking, our results suggest that Latin American high courts may have a reservoir of support that is deep enough to stand up to over-reach by the other branches of government and to secure implementation of their decisions. Minimally, we have much more to understand.

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Palabras clave

legitimidad – política judicial – relaciones entre Poderes – América Latina – conformidad

Keywords

legitimacy – judicial politics – inter-branch relations – Latin America – compliance

Abstract

Si bien es importante para todas las instituciones políticas, el apoyo difuso —también llamado legitimidad institucional— es especialmente vital para los tribunales. El saber convencional sugiere que la Corte Suprema en Estados Unidos goza de un nivel excepcionalmente alto de apoyo público; mientras que existe un pesimismo generalizado al evaluar la legitimidad de los tribunales superiores en América Latina. El artículo demuestra que no solo la Corte Suprema de los Estados Unidos no es una anomalía, sino que la suposición generalizada de que los tribunales latinoamericanos carecen de legitimidad pública es errónea. Se concluye con una discusión de las implicaciones de esta investigación, en pos de una interpretación más cuidadosa de estos conceptos de cara a una futura agenda de investigación.

Appendix A

Country-Year Averages

Table A1 takes a longer view of our measures of institutional support, reporting the national levels of *Diffuse Support* and *Institutional Trust* between 2006 and 2012. As noted in the paper, the Americas Barometer changed their wording of the diffuse support question throughout this time period. In earlier (2006, 2008) surveys, respondents were posed the following question: “Do you believe that there might be a time in which the president would have sufficient reason to dissolve the Supreme Court, or do you think that sufficient reason could never exist?” In later surveys (2010, 2012), the question, which contains more context, was asked: “Do you believe that when the country is facing difficult times it is justifiable for the president to dissolve the Supreme Court and govern without it?” *Diffuse Support* was coded as “1” if respondents answered either “No, there’s no sufficient reason [to dissolve the SC]” (2006, 2008), or when they responded “No, it is not justified” to the later surveys (2010, 2012). Where no country averages are reported, the question was not asked in that country-year.

The figures shown in Table A1 suggest that the 2008 values discussed in the text of the paper are not anomalous. Indeed, diffuse support for national courts is consistently high throughout the region. Though there appears to be a modest upward trend in most cases, the change in the wording of the question between 2008 and 2010 may also be to blame for this shift. As was the case in 2008, the national averages for diffuse support remain consistently high across cases, while the percentages of respondents reporting high levels of trust are consistently low.

Table A1
Diffuse Support and Institutional Trust in the Supreme Court,
Country-year Averages

Country	Question	2006	2008	2010	2012	Country Average	Country St. Dev
Argentina	Diffuse Support		83.57			83.57	
	Institutional Trust		26.98			26.98	
Bolivia	Diffuse Support		76.18		89.02	82.06	9.08
	Institutional Trust	31.28	37.73		23.23	30.74	7.26
Brazil	Diffuse Support		85.53	87.54	86.93	86.66	1.02
	Institutional Trust	35.01	31.93	49.32	42.27	42.22	6.91
Chile	Diffuse Support	88.97	84.55			86.76	3.13
	Institutional Trust	36.59	40.21			39.37	2.86
Colombia	Diffuse Support	71.38	77.39	90.53	88.82	82.03	9.18
	Institutional Trust	40.17	51.9	47.48	40.74	48.54	4.88
Costa Rica	Diffuse Support	81.01	83.19	86.52	88.06	84.69	3.18
	Institutional Trust	49.93	44.67	46.47	35.38	48.47	8.93
Dom. Rep.	Diffuse Support	82.00	81.36	86.77	87.39	84.38	3.13
	Institutional Trust	43.67	47.51	42.27	39.95	45.22	4.54
Ecuador	Diffuse Support	44.72	50.02	84.97	78.92	64.65	20.23
	Institutional Trust	13.06	17.40	20.5	29.47	20.46	6.44
El Salvador	Diffuse Support	73.53	77.62	85.98	84.22	80.33	5.79
	Institutional Trust	38.06	33.89	47.23	43.09	43.19	5.59
Guatemala	Diffuse Support	79.57	81.66	82.98	91.32	83.88	5.15
	Institutional Trust	28.57	26.20	27.59	27.50	30.37	1.15
Honduras	Diffuse Support	86.69	82.73	90.06	86.23	86.42	2.99
	Institutional Trust	22.02	18.46	48.68	19.16	30.24	13.38
Mexico	Diffuse Support	80.58	75.27	84.85	87.74	82.11	5.42
	Institutional Trust	49.42	47.56	47.70	43.78	48.69	4.19

Table A1
Diffuse Support and Institutional Trust in the Supreme Court,
Country-year Averages

Country	Question	2006	2008	2010	2012	Country Average	Country St. Dev
Nicaragua	Diffuse Support	77.24	85.44	90.20	89.23	85.52	5.89
	Institutional Trust	26.33	23.70	27.53	45.79	32.90	8.40
Panama	Diffuse Support	80.33	75.67	92.40	96.57	86.24	9.85
	Institutional Trust	30.60	27.99	38.80	34.75	34.81	4.35
Paraguay	Diffuse Support	67.60	79.83	74.08	80.47	75.49	5.99
	Institutional Trust	18.97	11.49	23.17	26.75	20.91	7.01
Peru	Diffuse Support	56.80	65.33	82.46	82.08	71.66	12.72
	Institutional Trust	18.27	15.87	17.80	24.47	19.58	3.72
Uruguay	Diffuse Support	85.19	83.02	91.87	92.58		
	Institutional Trust	46.83	48.40	60.2	48.94	55.01	6.21
Venezuela	Diffuse Support	82.94	79.90			81.42	2.15
	Institutional Trust	36.29	29.33			34.39	4.25
Haiti	Diffuse Support	92.19	87.32	87.35	82.94	87.45	3.77
	Institutional Trust	15.38	21.16	14.84	17.70	17.76	3.14
Jamaica	Diffuse Support	81.96	74.52	92.15	93.77	85.59	9.04
	Institutional Trust	34.29	39.49	40.23	50.87	45.89	5.92
Guyana	Diffuse Support	79.95	79.63	91.37	93.69	86.16	7.41
	Institutional Trust	44.24	50.20	42.92	56.90	51.09	5.97
Belice	Diffuse Support		79.29	89.03	94.08	87.46	7.51
	Institutional Trust		50.45	47.07	66.47	58.40	9.78
EEUU	Diffuse Support	83.48				83.48	
	Institutional Trust	69.29	44.27			57.12	18.18
Canada	Diffuse Support	78.93				78.93	
	Institutional Trust	76.37	71.95			75.53	3.38
Regional Average	Diffuse Support	76.00	77.20	87.24	88.10		
	Institutional Trust	33.4	35.89	37.66	38.22		

Table B1
Comparison of Sample Demographics

		MTurk		Internet	In person
	Sample	Christenson and Glick	Berinsky, Huber, Lenz	ANES-P 2008-09	ANES 2008
% Female	51	54	60.1	58	55
% White	76	79	84	83	79
% Black	12	8	4	9	12
% Hispanic	11	5	7	5	9
Mean Age (Yrs)	37	33	32	50	47
Mean Ideology (7 pt.)	3	3	3	4	4
Education	54% Col Grad 34% Some Col	50% Col Grad 37% Some Col	15 yrs	16 yrs	14 yrs

ANES-P is the American National Election Panel Study conducted by Knowledge Networks, and the ANES is the American National Election Study. Data from the ANES are weighted. Data for Christenson and Glick comes from Table A1 of their article (which also forms the basis for this table); data for the remaining columns comes from Table 3 in Berinsky, Huber, and Lenz (2012).

Appendix B

The MTurk Survey

Because Mechanical Turk samples are convenience samples, a natural question to ask about it concerns the extent to which it represents the American people. While MTurk samples are not representative of the U.S. population, recent research suggests that they are far more representative than typical convenience samples (Clifford, Jewell and Waggoner, 2015; Berinsky, Huber and Lenz, 2012; Huff and Tingley, 2015). Perhaps more importantly, researchers have replicated key findings in law and psychology using MTurk samples (Firth, Hoffman and Wilkinson-Ryan, 2018; Christenson and Glick, 2015). Still, we report in this appendix some information about the demographics of our sample compared to other prominent samples.

To this end, Table B1 compares the characteristics of our sample to those used by Christenson and Glick (2015), perhaps the most well-known investigation of public support toward U.S. courts to rely on MTurk data, the Berinsky, Huber, and Lenz MTurk sample, the 2008-2009 American National Election Panel Study (a web-based panel survey), and the 2008 American National Election Study, a well-known face-to-face survey.

Overall, our sample is fairly representative. Its average age is markedly older than the other Mechanical Turk samples, it has a higher amount of Latino representation than any of the internet samples, and it has the same amount of African American representation as the ANES. One common critique of Mechanical Turk convenience samples is their relatively liberalness. While our sample is slightly left-leaning, it is no more left-leaning than is typical. With these demographics, we echo Berinsky, Huber, and Lenz's conclusion: "the MTurk sample does not perfectly match the demographic and attitudinal characteristics of the U.S. population but does not present a wildly distorted view of the U.S. population either. Statistically significant differences exist between the MTurk sample and the benchmark surveys, but these differences are substantively small. MTurk samples will often be more diverse than convenience samples and will always be more diverse than student samples." Given these important caveats, we are comfortable employing an MTurk sample for our purposes.